

SENATE BILL 204

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2004 Regular Session
(4lr1139)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Stone and Giannetti (Committee to Revise Article 27 - Crimes and Punishments)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law - Contradictory Statements - Prosecution and Charging -**
3 **False, Fictitious, or Fraudulent Representations to Legislative Branch Units**

4 FOR the purpose of prohibiting a person from willfully and falsely making an oath or
5 affirmation as to a material fact under certain circumstances; expanding the
6 application of a violation of this Act to include affidavits required by any state,
7 federal, or local government or government official; providing for the
8 prosecution of a violation of this Act involving two contradictory statements in
9 either county in which the statements are made; establishing a certain
10 statement that is sufficient for certain charging documents for a violation of this
11 Act involving contradictory statements; ~~prohibiting a person, in a matter within~~
12 ~~the jurisdiction of a Legislative Branch unit, from falsifying or concealing a~~
13 ~~material fact or making or using a false, fictitious, or fraudulent representation~~
14 ~~under certain circumstances; providing a certain penalty for a violation of this~~
15 ~~Act; defining a certain term;~~ and generally relating to contradictory statements
16 ~~and false, fictitious, or fraudulent representations to Legislative Branch units.~~

1 BY repealing and reenacting, with amendments,
 2 Article - Criminal Law
 3 Section 9-101 and 9-103
 4 Annotated Code of Maryland
 5 (2002 Volume and 2003 Supplement)

6 ~~BY adding to~~
 7 ~~Article - State Government~~
 8 ~~Section 2-1703~~
 9 ~~Annotated Code of Maryland~~
 10 ~~(1999 Replacement Volume and 2003 Supplement)~~

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Criminal Law**

14 9-101.

15 (a) A person may not willfully and falsely make an oath or affirmation AS TO
 16 A MATERIAL FACT:

- 17 (1) if the false swearing is perjury at common law;
 18 (2) in an affidavit required by ANY STATE, FEDERAL, OR LOCAL law;
 19 (3) in an affidavit made to induce a court or officer to pass an account or
 20 claim;

21 (4) in an affidavit required [as part of a report and return made to the
 22 General Assembly or an officer of the government] BY ANY STATE, FEDERAL, OR
 23 LOCAL GOVERNMENT OR GOVERNMENTAL OFFICIAL WITH LEGAL AUTHORITY TO
 24 REQUIRE THE ISSUANCE OF AN AFFIDAVIT; or

25 (5) in an affidavit or affirmation made under the Maryland Rules.

26 (b) A person who violates this section is guilty of the misdemeanor of perjury
 27 and on conviction is subject to imprisonment not exceeding 10 years.

28 (c) (1) If a person makes an oath or affirmation to two contradictory
 29 statements, each of which, if false, is prohibited by subsection (a) of this section, it is
 30 sufficient [for purposes of indictment] to allege, and for conviction to prove, that one
 31 of the statements is willfully false without specifying which one.

32 (2) IF THE TWO CONTRADICTORY STATEMENTS MADE IN VIOLATION OF
 33 PARAGRAPH (1) OF THIS SUBSECTION ARE MADE IN DIFFERENT COUNTIES, THE
 34 VIOLATION MAY BE PROSECUTED IN EITHER COUNTY.

1 (d) A person who violates this section is subject to § 5-106(b) of the Courts
2 Article.

3 9-103.

4 (A) An indictment, information, or [warrant] OTHER CHARGING DOCUMENT
5 for perjury IN VIOLATION OF § 9-101(A) OF THIS SUBTITLE is sufficient if it
6 substantially states:

7 "(name of defendant) on (date) in (county), on examination as a witness, duly
8 sworn to testify in (proceeding) by (court or other person administering oath) with
9 authority to administer the oath, [unlawfully] WILLFULLY, UNLAWFULLY, and falsely
10 swore (facts), the matters so sworn were material, and the testimony of (name of
11 defendant) was willfully and corruptly false, in violation of (section violated) against
12 the peace, government, and dignity of the State."

13 (B) AN INDICTMENT, INFORMATION, OR OTHER CHARGING DOCUMENT FOR
14 PERJURY IN VIOLATION OF § 9-101(C) OF THIS SUBTITLE IS SUFFICIENT IF IT
15 SUBSTANTIALLY STATES:

16 "(NAME OF DEFENDANT) IN (COUNTY), ON EXAMINATION AS A WITNESS, DULY
17 SWORN TO TESTIFY IN (PROCEEDING) BY (COURT OR OTHER PERSON
18 ADMINISTERING OATH) WITH AUTHORITY TO ADMINISTER THE OATH, ON (DATE 1)
19 WILLFULLY SWORE (FACTS 1) AND ON (DATE 1 OR 2)(IN COUNTY 1 OR 2) WILLFULLY
20 SWORE (FACTS 2), AND THAT THE MATTERS SO SWORN ARE MATERIAL, AND AT LEAST
21 ONE OF THE TWO CONTRADICTORY STATEMENTS WAS WILLFULLY FALSE, IN
22 VIOLATION OF (SECTION VIOLATED) AGAINST THE PEACE, GOVERNMENT, AND
23 DIGNITY OF THE STATE."

24 ~~Article – State Government~~

25 ~~2-1703.~~

26 (A) ~~IN THIS SECTION, "UNIT" MEANS ANY OF THE FOLLOWING ENTITIES OF~~
27 ~~THE LEGISLATIVE BRANCH OF THE STATE GOVERNMENT:~~

28 (1) ~~A STANDING COMMITTEE AS DEFINED IN § 2-101(F) OF THIS TITLE OR~~
29 ~~A SUBCOMMITTEE OF A STANDING COMMITTEE;~~

30 (2) ~~A LEGISLATIVE COMMITTEE CREATED BY STATUTE OR A~~
31 ~~SUBCOMMITTEE OF A LEGISLATIVE COMMITTEE;~~

32 (3) ~~THE LEGISLATIVE POLICY COMMITTEE OR A SPECIAL COMMITTEE~~
33 ~~APPOINTED BY THE LEGISLATIVE POLICY COMMITTEE UNDER § 2-407(B)(3) OF THIS~~
34 ~~TITLE; OR~~

35 (4) ~~ANY OTHER TASK FORCE OR COMMITTEE APPOINTED BY THE~~
36 ~~LEGISLATIVE POLICY COMMITTEE OR THE PRESIDING OFFICER OF THE HOUSE OR~~
37 ~~SENATE.~~

1 ~~(B) THIS SECTION APPLIES ONLY TO HEARINGS OR OTHER PROCEEDINGS OF A~~
2 ~~UNIT THAT ARE REQUIRED TO BE RECORDED BY THE RULES OF THE HOUSE OR~~
3 ~~SENATE.~~

4 ~~(C) A PERSON MAY NOT, IN A MATTER WITHIN THE JURISDICTION OF A UNIT,~~
5 ~~KNOWINGLY AND WILLFULLY:~~

6 ~~(1) FALSIFY OR CONCEAL A MATERIAL FACT;~~

7 ~~(2) MAKE A FALSE, FICTITIOUS, OR FRAUDULENT REPRESENTATION; OR~~

8 ~~(3) MAKE OR USE A DOCUMENT THAT CONTAINS A FALSE, FICTITIOUS,~~
9 ~~OR FRAUDULENT REPRESENTATION.~~

10 ~~(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR~~
11 ~~AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR~~
12 ~~IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.~~

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
14 effect October 1, 2004.